

**MINUTES OF THE LOCAL AGENCY FORMATION COMMISSION
HEARING OF SEPTEMBER 17, 2008**

REGULAR MEETING

9:00 A.M.

SEPTEMBER 17, 2008

PRESENT:

COMMISSIONERS:

Jim Bagley	Brad Mitzelfelt, Alternate
Bob Colven, Chairman	Mark Nuaimi
James V. Curatalo, Alternate	Richard P. Pearson
Dennis Hansberger, Vice Chairman	Diane Williams, Alternate
Larry McCallon	

STAFF: Kathleen Rollings-McDonald, Executive Officer
Clark Alsop, Legal Counsel
Samuel Martinez, Senior LAFCO Analyst
Michael Tuerpe, LAFCO Analyst
Angela Schell, Deputy Clerk to the Commission

ABSENT:

COMMISSIONERS: Paul Biane
Kimberly Cox

CONVENE REGULAR SESSION OF THE LOCAL AGENCY FORMATION COMMISSION
– CALL TO ORDER – 9:07 A.M.

Chairman Colven calls the regular session of the Local Agency Formation Commission to order and leads the flag salute.

Chairman Colven requests those present who are involved with any of the changes of organization to be considered today by the Commission and have made a contribution of more than \$250 within the past twelve months to any member of the Commission to come forward and state for the record their name, the member to whom the contribution has been made, and the matter of consideration with which they are involved. There are none.

APPROVAL OF MINUTES FOR REGULAR MEETING OF AUGUST 20, 2008

Chairman Colven calls for any corrections, additions, or deletions to the minutes. There are none. Commissioner Pearson moves approval of the minutes as presented, seconded by Commissioner Colven. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Hansberger, Pearson. Noes: None. Abstain: McCallon (Commissioner Williams voting in his stead), Nuaimi. Absent: Biane, Cox (Commissioner Curatalo voting in her stead).

CONSENT ITEMS – APPROVE STAFF RECOMMENDATIONS

LAFCO considers the items listed under its consent calendar. The consent calendar consists of:

ITEM 2. Approval of Executive Officer's Expense Report

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ITEM 3. Ratify Payments as Reconciled for Months of July and August 2008 and
 Note Cash Receipts

A Visa Justification for the Executive Officer's expense report, as well as a staff report outlining the staff recommendation for the reconciled payments, have been prepared and copies of each are on file in the LAFCO office and are made a part of the record by their reference here.

Commissioner McCallon moves approval of the consent calendar as presented, seconded by Commissioner Pearson. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane, Cox (Commissioner Curatalo voting in her stead).

CONTINUED ITEMS

**MUNICIPAL SERVICE REVIEW FOR THE COMMUNITY OF APPLE VALLEY AND
THE FOLLOWING SPHERE OF INFLUENCE UPDATE/AMENDMENT REVIEWS
(CONTINUED FROM AUGUST 20, 2008)**

LAFCO conducts a public hearing to consider municipal service reviews for the community of Apple Valley. Notice of this hearing has been advertised as required by law through publication in *The Sun* and *Apple Valley News*, newspapers of general circulation. Individual notice of this hearing was provided to affected and interested agencies, and those individuals and agencies requesting mailed notice.

Executive Officer Kathleen Rollings-McDonald states the staff report has been prepared in sequence. She recommends that staff make its presentation and recommendation and take testimony on each individual item. It is the consensus of the Commission to follow staff's recommendation and take each item individually.

Ms. McDonald states the first item for discussion is the determination of the community of Apple Valley which is the basis for the sphere of influence policies. She explains that over time the Commission has altered and not adhered to its policy for the Apple Valley community. Some issues to be considered are as follows: In 1992 the Apple Valley Fire Protection district sphere of influence was expanded beyond that of the community and did not address the community issue. Also of issue is dissolution of the Apple Valley Park and Recreation District designating the Town as the successor agency, obligating it to continue to provide service to the territory in perpetuity; however, the issue of requiring the Town to serve nine square miles outside its sphere of influence was not addressed. In March 2008 the Town approved a General Plan amendment prezone for territory within its sphere and beyond. She explains that there are areas outside the sphere of influence and the staff responded on the environmental assessment. The Town and LAFCO staff disagreed regarding the environmental discussion on this prezone and LAFCO has taken no further action, but the General Plan amendment has been adopted and the Town has fulfilled the requirement to zone its sphere of influence territory. She outlines options for designating the community. Staff's recommendation is that it be a combination of the options. She states that the territory of the Apple Valley Fire Protection District's sphere of influence has varying levels of development potential, industrial and freeway corridor areas, and excludes the Stoddard Wells Off-Highway

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Vehicle Park, which is publicly owned land whose development potential is minimal. It excludes public lands in the southern area and there are modifications along the Mojave River along the western edge which are proposed. She states that that is the staff's recommendation for definition of the community.

Commissioner Hansberger states the sphere is extraordinarily large and the suggestion is that development there should be controlled by the Town, and if it is to be developed, he would not disagree. However, it suggests a large amount of urban sprawl. He asks how communities can be compacted to be more physically and energy efficient. He would like to hear discussion about why so much territory is required to handle a population. Commissioner McCallon asks why the lower eastern edge out to section lines is not included. Ms. McDonald states this is the CSA29 existing boundary and is a planning boundary line for Lucerne Valley. Commissioner Hansberger asks if CSA29 provides services in that area today. Ms. McDonald states that it provides Park and Recreation services to the entirety of the community. That area has development and it includes a number of mutual water companies.

(It is noted that Commissioner Mitzelfelt arrives at 9:24 a.m.)

There is consensus on the community definition.

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3013;
AND (2) LAFCO 3013- SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE
FOR TOWN OF APPLE VALLEY**

(Legal Counsel Clark Alsop leaves the hearing; Holly Whatley, Special Counsel, represents LAFCO for the Town of Apple Valley Service Review.)

LAFCO conducts a public hearing to consider a municipal service review for the Town of Apple Valley. Ms. McDonald explains that the Commission is required by law to conduct a municipal service review for each entity under its purview every five years. Ms. McDonald points out the boundaries of the Town and states that south of Bear Valley Road there has been an issue regarding the ability to serve parcels along the Mojave River. LAFCO staff has participated with the Development Review Committee for County Land Use Services in discussions regarding development potential for the area. The map shows developments approved and in process. She notes that current development applications by the County anticipate 5,000 residential units, 3,000 of which are within the Hacienda project. Commissioner Hansberger asks about the status of that project. Ms. McDonald responds that it is being evaluated for an Environmental Impact Report and the project description is in process.

Ms. McDonald states LAFCO staff has issues with the sphere designation along the Mojave River relating to access to the parcels. LAFCO staff discovered that there is a railroad parcel that is more appropriately a part of the Town rather than the City of Victorville sphere of influence north of Bear Valley Road. South of Bear Valley Road there has been a longstanding issue regarding the ability to serve parcels along the Mojave River, mostly with other service providers including Apple Valley Fire Protection District, Hesperia Fire Protection District, Hesperia Recreation and Park District, and Hesperia Water District. Ms. McDonald points out a single parcel located on the west side of the river with no direct access from the town except from the Hesperia side which

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should be transferred to Hesperia. The parcels along the Mojave River are accessible only from the Hesperia side and LAFCO staff has proposed the modification of the Town boundary to run along the eastern side of the parcels so that they are in the sphere of the entities that can serve them. LAFCO staff has reviewed this with the Town and it has expressed no opposition. Commissioner McCallon asks if Hesperia has responded. Ms. McDonald states that the City of Hesperia has expressed no opposition.

Ms. McDonald states the staff report outlines all municipal service review issues, including growth and population. She points out that growth in the north desert is anticipated to be substantial. SCAG projections through 2030 show that the Town has exceeded its 2010 projections already. Present and planned capacity of services and adequacy of public services have been adequately addressed by the Town. The Town is responsible for sewer service and is the entity having succeeded to the Apple Valley County Water District when it was dissolved. It contracts with the Victor Valley Wastewater Reclamation Authority (VWRA) for collection and transportation of effluent. She adds that the staff report states that the Recreation and Park District operates at a deficit and it is not uncommon for such a district to be subsidized by a city general fund. Ms. McDonald states information is provided on how many roads the city is repairing, as one of the issues at the time of incorporation was the ability of the Town to maintain its roads. LAFCO staff has reviewed the financial abilities of the agencies. The Town has been commended on several occasions for its CAFR reports. The Town shares facilities with Apple Valley Fire Protection District for emergency operations. Staff has identified the government structure options. She says that the Town does not provide sewer service outside its boundaries and does not have policies addressing that issue; however, some of the developments in the sphere, in the County's view, may only be available for development with connection to a sewer system. There have been questions regarding continuing park and recreation service outside the Town's boundaries. She adds that staff understands that the question of the imposition of Quimby Act fees within the prior boundaries of the Park District have been resolved and the Town is receiving those revenues. Other government structure options have been identified – one is the annexation of the sphere to the Town. The Town did in fact evaluate that option and, in doing so, adopted a policy for annexation review and they identified that annexation would only bring in approximately \$800,000 in revenue but would cost \$1.3 million, so it opted not to propose annexation of the sphere. With reference to water service, the primary water providers inside the Town are private water companies, Apple Valley Ranchos and Golden State Water Company and evaluation of the potential to take those over by the Town was reviewed by the Town; however, the financial liabilities were so large this was abandoned. The potential for dissolution of the fire protection district and assumption of that service is a possibility. However, since subsidiary district status is not available due to its size, it has not proposed or supported the option of dissolving that district. The maintenance of the status quo would be maintenance of the sphere of influence and its existing policies and pursuits. She states that this is staff's recommendation. Staff recommends that the Commission affirm the bulk of the existing sphere of influence, make modifications noted along the Mojave River, and in doing so, indicate that it is statutorily exempt from environmental review, receive and file the municipal service review for the Town and take actions to update and defer adoption of the resolution to the October hearing to be adopted on the consent calendar.

Commissioner Curatalo asks about the area that stops short of the river in looking at the

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map of Hesperia and Apple Valley. Ms. McDonald states access to these parcels is on the east side of the river, so they've been retained within Apple Valley. He says it appears there are some parcels between the area transferred and the river. She says that is already within the Hesperia sphere.

Commissioner Nuaimi asks about considerable development activity and interest outside the current incorporated boundaries. He asks if the annexation assessment takes into account areas currently developing, and are those projects developable without annexation taking place. Ms. McDonald states they are. He asks if this is something the Town and County are embracing to have it take place without incorporation. Ms. McDonald states the Town and the County are negotiating a memorandum of understanding regarding development standards within the sphere. The Government Code requires that the Town and County must meet before submission of sphere update materials. That memorandum of understanding will define standards for development within the sphere and sharing of information. The Town adopted it in June and it was to be considered by the Board of Supervisors yesterday but was continued to October 7 for adoption. Commissioner Nuaimi states that if development of urbanized towns is to take place, it should be done within the city or town limits and there should be a policy encouraging or mandating annexation if development is to take place. He believes a cycle where neighborhoods are created and associated but not exactly tied continues the process by the City. Ms. McDonald states that might be the case, but for instance, the communities of Helendale, Phelan Pinon Hills and Lucerne Valley are developing in a unique manner and may ultimately be a city in the future. Within the spheres of influence, the sphere standard overlay available through the County General Plan to be placed in the Development Code so that there is no visible transition between a city and county development removes some of that; for example, street widths would be standardized. Mr. Nuaimi questions if there would be a sense that the community would be separate and distinct and excluded from the sphere if development is taking place outside the city, to which Ms. McDonald responds in the negative.

Commissioner Mitzelfelt states the County General Plan has provisions for sphere standards overlay areas and that is to resolve the continuing conflicts between cities and the County over development in the spheres and this would be the first such agreement to be adopted if it goes as scheduled. He adds that Fontana is also pursuing a sphere standards overlay agreement with the County. He clarifies for the record, on page 21 of the staff report, the statement is made that the memorandum of understanding that was before the Board of Supervisors and continued yesterday, would assure the County's approval of a proposed development in the sphere of influence is consistent with the shared objectives of the County and the City. He clarifies that the memorandum of understanding sets forth the process for the County and Town to negotiate the predetermined standards for the sphere. The memorandum of understanding itself has no standards, but includes goals. He says the Town and County will have to come to agreement on the standards. The memorandum of understanding will bind the Town and County to a good faith effort. He says one of the key issues will probably be sewer service because oftentimes the Town comments that the County should sewer the project. Per County policy, the projects are too far removed from the infrastructure to make connection to sewer service feasible. He points out that this may be the most difficult issue upon which to reach agreement. He says there is a willingness and genuine desire to make sure the agreed-upon standards will allow more predictable and orderly development.

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Commissioner Mitzelfelt states the County is collecting Quimby Act fees. He says the Fire District is collecting impact fees within the Town but not within the County areas. He has met with the Fire Chief and has signaled his attempt to initiate a study that the Fire District will undertake for future consideration by the Board of Supervisors. He has informed the Town Manager of that effort.

Commissioner Nuaimi asks if it is the expectation that development will occur outside the incorporated boundaries and that it will stay unincorporated or will it develop and eventually incorporate. Ms. McDonald states that the sphere designation indicates the Commission's position that it eventually would be included in the Town. The Town has been obligated to include the territory within its General Plan. LAFCO staff had a concern that the sphere territory had not been included in the Town's General Plan but that issue has been resolved. The inclusion would be for all the agencies defined for the community of Apple Valley. Commissioner Nuaimi states that thousands of planned residential units are in the sphere but there are no plans for annexation, and once those homes are built there may be a battle with residents who do not want to be annexed to the Town.

Ms. McDonald states the key issue is related to sewer service. There are a number of developments approved along the border of the Town currently. The potential is that the development is approved and in order to get service if needed there may be a discussion regarding annexation in that area. Other areas are not available for annexation because they are not contiguous. She adds that the issue for adequate fire protection will be paramount in discussions here.

Commissioner Nuaimi questions if the Town would show that it is financially viable if it were to submit an annexation application. Ms. McDonald says it probably would, especially in light of VLF and supplemental percentage share of property tax which is seven percent versus the three percent the Town currently receives. She says these developments, however, must be contiguous in order to be annexed.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

Commissioner Hansberger moves approval of the staff recommendation, seconded by Commissioner Mitzelfelt. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Cox (Commissioner Curatalo voting in her stead).

(Legal Counsel Clark Alsop returns to the hearing.)

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2998;
AND (2) LAFCO 2998-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE
FOR APPLE VALLEY FIRE PROTECTION DISTRICT**

Ms. McDonald points out the sphere and boundaries on the map, indicating there is territory in the District and outside the Town. Ms. McDonald states the District was the first public entity created in the Apple Valley community in 1951 as an independent fire

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protection district and has existed ever since. One of LAFCO's first Special Districts Commissioners was Harold Bertolotti who served on the Apple Valley Fire Protection District for a number of years. She states that included in the staff report are the determinations of a municipal service review required by the Government Code. She says LAFCO staff has identified the County's General Plan and projects proposed for development. One of the primary issues is related to financing. Development impact fees are charged for fire protection purposes inside the Town but not in the unincorporated areas, which creates a "haves" and "have-nots" situation. All fire stations are currently within the Town boundaries. She says this is an issue if the development within the County does not pay development impact fees in order to provide for facilities and apparatus. She notes that the presentation by Commissioner Mitzelfelt that he is working to discuss that with the Fire Protection District and the County will assist in this regard. The Fire Protection District has a special 20-year tax that is scheduled to expire in 2018 which accounts for 34 percent of revenues for the district. LAFCO staff is concerned that it must be addressed within the 2030 time frame to assure ongoing service delivery for the district because the absence of those revenues will decimate the services, in staff's view. The governmental structure options are identified and this district is not available for establishment as a subsidiary district, as it does not meet the 70 percent land area rule regarding boundaries. There is an issue along the Mojave River regarding clarification of parcel boundaries and access for service. The area to the south has been a part of the sphere since 1992 and a portion of the southern area is proposed to be excluded from the sphere of influence of the Fire Protection District. The rougher terrain, which is currently part of the San Bernardino County Fire Protection District, is proposed to be excluded and inclusion of this area within a municipality would require that the state responsibility area designation be removed and the Town becomes financially responsible for wildland fire protection under certain circumstances, which can be devastating to a city's budget. LAFCO staff has proposed the exclusion of that territory from the Fire Protection District sphere of influence. A letter was received from the Fire Protection District indicating its inability to be present today but that it has no opposition to the staff's recommended changes.

Staff proposes that the sphere be modified to exclude the territory described above. In essence, the Fire Protection District sphere of influence is the community definition for the community of Apple Valley. This is statutorily exempt from environmental review. Staff is asking that the Commission receive and file the MSR report, take action regarding the sphere of influence amendment and defer adoption of the resolution to the October hearing.

Chairman Colven calls for questions from the Commission. There are none.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

Commissioner Nuaimi moves approval of the staff recommendation, seconded by Commissioner Mitzelfelt.

Commissioner Hansberger state that, with reference to sewer service, VVWRA which is strictly an agency that has wastewater treatment and regional collection lines, does it provide individual sewer service to the user. Ms. McDonald states each area has its own provider. He asks who would maintain the local collection in the Town. Ms. McDonald

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says it would be the Town, and the Town uses VVWRA for transportation and treatment on a regional basis. The Town is responsible for the collection system and a portion of the monthly sewer fees go to the VVWRA to pay for that service. He asks if areas east of the Town that are proposed for development could have their own sewer collection system or if they could use VVWRA. Ms. McDonald states that it is her understanding that the County is a member entity of VVWRA on behalf of CSA 42 and 64. She assumes as a County entity, it could in fact provide service. Any new sewerage entity would have to be voted on for inclusion into that JPA by all member agencies. He says it would be useful to have information on funding by federal grants for sewage treatment facilities and their backbone collection systems. He would like information on what areas those grants cover because one would then know what areas the regional treatment facility has an obligation to serve. He says he has obtained this information from the State Water Resources Board in the past. Environmental Consultant Tom Dodson states his firm deals with grants issued and the state involving fund loans, and he states that fundamentally grants that come through come through the state board acting on behalf of the EPA. There are instances where funds are directly granted to a water agency through a Congressional allocation, but grants and loans come through the state board. That information can be obtained from the state water board from previous grants and loans that have been assigned to be able to define the boundaries in the areas that are affected and that must be served. Commissioner Hansberger reiterates this would be useful information in dealing with municipal service reviews.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Hansberger, McCallon, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane, Cox (Commissioner Curatalo voting in her stead).

CONSIDERATION OF:

(1) CEQA STATUTORY EXEMPTION FOR LAFCO 2999; AND (2) LAFCO 2999-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR APPLE VALLEY HEIGHTS COUNTY WATER DISTRICT

(3) CEQA STATUTORY EXEMPTION FOR LAFCO 3003; AND (4) LAFCO 3003-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR APPLE VALLEY FOOTHILL COUNTY WATER DISTRICT

(5) CEQA STATUTORY EXEMPTION FOR LAFCO 3009; AND (6) LAFCO 3009-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR MARIANA RANCHOS COUNTY WATER DISTRICT

(7) CEQA STATUTORY EXEMPTION FOR LAFCO 3015; AND (8) LAFCO 3015-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE FOR THUNDERBIRD COUNTY WATER DISTRICT

Ms. McDonald reports on all water agencies in the Apple Valley Community and states that water in the north desert is the lifeblood of the community. It is LAFCO staff's view that those areas that have access to water will thrive and those that do not will have their abilities to extend service and provide service deteriorate. The Apple Valley area is unique in that it has a number of water providers within the Town limits and its sphere of influence. She points out on the map the Apple Valley Ranchos Water Company, which

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is in the Town of Apple Valley and in a small area of the City of Victorville, Golden State Water Company, formerly known as SoCal Water, a subsidiary of the San Gabriel Water Company, mutual water companies, and five county water districts, Thunderbird, Juniper Riviera, Apple Valley Foothill, Mariana Ranchos and Apple Valley Heights. She says in 1973 when LAFCO created its first set of spheres of influence, in discussing the Apple Valley area, staff at that time made a recommendation that four small water districts should consolidate in order to provide service in the future. As of 1994 LAFCO has been given the ability to consolidate entities under the Gotch Bill. One of the first items discussed was consolidation of the county water districts in the Apple Valley area into one water district. She says staff undertook a special study at that time and the districts were very cooperative in providing information but adamant in their position to oppose vigorously any proposal to consolidate their agencies. Given that the standards for protest are much different in a Commission-initiated application, that study was dropped and no further action taken. The Juniper Riviera County Water District has proposed a sphere expansion request as part of its review. A unique issue exists regarding Public Utilities Commission (PUC) regulations for private water companies, and there is a process to expand the certificated service area of the water utility. The process includes review and approval by the PUC; however, the expansion of a private water company within 2,000 feet of its existing boundaries is considered contiguous and automatic, so the water company can expand without review of the PUC. Staff has defined the area potentially available for expansion through Apple Valley Ranchos or Golden State Water. Ms. McDonald points out on the map areas that anticipate receiving water service from Apple Valley Ranchos or Golden State Water. She says none of these development projects anticipate receipt of service from a public water agency. She says one of the key issues was the ability of these agencies to continue as they are surrounded and engulfed by private water companies.

She says the service connections for Apple Valley Ranchos far exceed the rest of the water companies. In 2006-2007 it had more than 18,000 connections and Golden State had 2,500. Of the five smaller districts, the largest is Mariana Ranchos, which had 399 connections. She says an average monthly cost for Apple Valley Ranchos far exceeds the other agencies. Commissioner Hansberger asks what is the ownership and governance of Apple Valley Ranchos Water Company. She says it is a wholly owned subsidiary of the Park Water Company, which is one of the largest water companies in the Los Angeles basin. It also owns a private water company in Missoula, MT. Apple Valley Ranchos' service area is 43 square miles.

Ms. McDonald states the free production allowance is identified in the staff report. She points out that this is an adjudicated basin and all major producers were given a free production allowance. Based upon the sub-basin, that free production allowance has been ramped down over time to try to bring the basin within safe levels of extraction. The Alto basin is at 60 percent of free production allowance. The free production allowance is taken from the tables from the Mojave Water Agency staff report. The Apple Valley Ranchos Water Company's water production indicates that it produces more than its free production allowance, so it must purchase water from other agencies within the sub-basin to avoid paying the higher replacement water rate and make-up water rate, which is a very expensive undertaking. Apple Valley Ranchos has been very aggressive in acquiring additional water to cover its production requirements. It did have to make up water in 2003-2004; however, the cost was less than \$20. Connections anticipated in the sphere for the development applications for Apple Valley Ranchos exceeds 4,500

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anticipated connections, anticipating the use of that water. Commissioner Nuaimi asks if there is a connection fee. Ms. McDonald says it appears there is not. He says that because of the PUC structure, private water companies would not charge a connection fee in order to build it into the rate base.

Ms. McDonald says Golden State Water is divided into three distinct areas. The south area includes a projected expansion area which will encompass Apple Valley Foothill on the west and north. LAFCO staff is working with the company to clear up some questions on boundaries. She says that a portion of the area proposed for expansion has been included in Apple Valley Ranchos. Golden State has an area along Tussing Ranch Road that is anticipated to expand. Of note is an area southerly of Tussing Ranch Road that has been a part of Golden State Water Company for a number of years, and has been included in the Mariana Ranchos sphere of influence for over 20 years. Service is now provided within that sphere by Golden State Water. Of issue to a PUC-regulated entity is that when it expands, the agency is asked to contact the local LAFCO to obtain a letter indicating that the expansion is not part of another public entity or its sphere of influence. Apple Valley Ranchos has done that for more than 20 years. Golden State has indicated that it will also do the same in the future. She says this growth pattern illustrates some of the concerns of LAFCO staff regarding the future of the public entities in this area. Free production allowances for Golden State in its Alto sub-basin have been listed in the staff report. It, too, has not had to pay for replacement or makeup water.

Ms. McDonald points out the area on the map served by Apple Valley Foothill Water District. This district has 209 connections and encompasses 717 acres. In its history it has had one proposed annexation by a property owner which the District opposed and it was not annexed. She adds that boundaries have not changed for 40 years. This district has a current population of about 550 and has no expansion plans. It has indicated that it needs to increase facilities to insure supply and fire flow capacities. The District's free production allowance table indicates it had no transfers, it did have carryovers and the table shows production and its current need for purchase of water. It has purchased makeup water in the first two years (2002-2003 and 2003-2004) and has had a replacement obligation that is increasing. Even though development is small in this area, there are some vacant parcels, so growth will continue to be an issue.

It was and is the position of LAFCO staff that these water agencies should be consolidated. LAFCO staff has indicated in the review of Apple Valley Foothill County Water District that staff believes the district should be expanded to encompass the other water agencies in the general area, Mariana Ranchos and Apple Valley Heights. LAFCO staff proposes that the sphere of influence be designated as one, excluding the territory that is currently part of the Golden State Water Company, even though it has historically been part of the sphere of Mariana Ranchos. There would be no change in service delivery for that area. Small areas southerly of Apple Valley Heights County Water District that are not currently in the sphere are privately owned and should be expanded. LAFCO staff's position is that for the future, the best position to be taken for these agencies is to consolidate them.

Commissioner Bagley asks if there are inter-ties between the agencies. Ms. McDonald states there are none.

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Ms. McDonald points out that the small agencies do not have full-time office hours. The choice of Apple Valley Foothill as the expansion entity was decided by staff since it was the northernmost of the area. Any of the three could be expanded, however. In staff's view the consolidation of the three agencies makes sense for their future. They will need to acquire water in order to serve the existing connections and any future development within their areas. These districts operate in the best manner possible and have a dedicated board of directors who operate them. She points out that this is not a criticism of the operation of those small water companies; however, in LAFCO staff's view, for the future of this developing area, the only thing that makes sense for stability of the provision of water in this area is a consolidation. LAFCO staff has received verbal comments from the water companies that they vehemently oppose consolidation. Commissioner Hansberger asks what the basis of opposition is. Ms. McDonald states the agencies have indicated that they operate efficiently and there is no need for change. Commissioner Hansberger asks if it is possible that instead of choosing an agency that all three agencies share the same sphere. Ms. McDonald states that could be done and it would give the Commission's decision less of a punitive spin.

Commissioner Mitzelfelt asks if staff is recommending that the identical sphere be assigned to all three agencies. Ms. McDonald says her recommendation is to give Apple Valley Foothill the sphere and assign zero spheres to the other agencies. He asks if the Apple Valley Foothill district has the most connections. She says it does not, Mariana Ranchos has the most. He asks why the largest agency would not be favored. She explains that there have been issues regarding Mariana Ranchos, so the northernmost agency was chosen. He says that Commissioner Hansberger's idea of assigning the agencies the same sphere for the service area makes most sense because it is less punitive in nature and would give any or all three a push in the direction of consolidation. Ms. McDonald states it would accomplish the goal of staff, which is to indicate that these three agencies need to work together for the future.

Commissioner Bagley states he is surprised there are no inter-ties because of the possible issues with fire flow. Ms. McDonald states there are issues with fire flow at times, but these are very small agencies. Apple Valley Foothill's tank has been reviewed and determined to be in good condition, but was installed in the 1950's. There are some service issues but, in the staff's view, the most important issue will be the free production issue and purchase of additional water that will be needed.

Commissioner Hansberger asks if those agencies have the same access to water from the Mojave Water Agency that all other agencies have. She states that for the purchase of replacement water before the purchase of makeup water and the other replacement water, they must go on the free market within their basin to purchase that water, so they compete with Apple Valley Ranchos and other large water producers in that same basin for water. He asks if there is a general equivalency of what an average residence uses in all areas, or if some areas are larger water users per residence. Ms. McDonald states that is unknown, but the costs for water vary dramatically. The average monthly bill for Apple Valley Ranchos has the highest monthly charge.

Commissioner Bagley asks if Mojave Water Agency releasing a corresponding number of acre feet when water is purchased. Ms. McDonald states the agency must make up that water to achieve zero production. She says it is after the fact, two years in arrears. He says that if these districts are competing for state water allocation in the future, they

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would have more clout as a consolidated district than they would independently. Ms. McDonald points out that these three agencies are bidding against each other.

Commissioner Colven asks what the alternative would be for an agency that is unsuccessful in attempting to obtain water. Ms. McDonald says it would have to pay for replacement water from Mojave Water, which is very expensive.

Ms. McDonald states that if the Commission initiates consolidation of the three agencies, the Commission would be responsible for all costs associated with that consolidation. If the proposal were approved, the protest would require 10 percent of the voters within any of the three districts, so if there are less than 300 voters in the district it would go down to 25 percent in any one district. She explains that these districts are small enough that on any given day it would be easy to get 25 percent of voters to sign a petition in opposition. She states the reality is that the consolidation cannot be forced through the Commission. However, if the consolidation is initiated by the three agencies by similar resolution, the consolidation cannot be denied by the Commission and the conditions cannot be changed specifically without the acceptance of the three agencies. The protest would then require 25 percent of the voters or landowners in the entirety of the consolidation. She says this is the option that was chosen by the Resource Conservation Districts when the consolidation of the spheres of those two agencies was proposed. The agencies prepared their own plan for consolidation and it moved forward very well. She states the ability of the landowners or registered voters to require an election in this case cannot be removed.

Ms. McDonald reports on Thunderbird Water District and states it is located in the northeastern portion of the Town of Apple Valley and is the area surrounded by the larger scale developments. She says initially this District had proposed sphere of influence expansion as part of its overall review, but it withdrew that application based on the questions regarding its service abilities. This District has no inter-ties with any agency surrounding it. It operates from two tanks. About 25 years ago one tank failed and the District was required to take out a loan. It was very difficult for the District, but it has recovered. There is still an issue regarding fire flow in this area. This District also needs to purchase water, and exactly the amount of their preproduction allowance must be matched. For the 2006-2007 year, there was a 65-acre foot shortfall that must be made up. She says this agency is surrounded by anticipated developments. Ms. McDonald points out territory proposed for the sphere expansion; however, the developers of the project have proposed to be served by the Apple Valley Ranchos Water Company, and in doing so, it would bring a water line to the project. Ms. McDonald states the staff is hopeful that it will include an inter-tie to the Apple Valley Ranchos System for Thunderbird, which will give a secondary emergency source, which is critically needed for this District. Commissioner Nuaimi asks if LAFCO could zero out the spheres until inter-ties are in place. Ms. McDonald states the Commission has the authority to do that. He asks if there is availability of an inter-tie for the districts. Ms. McDonald states that in this case the District is well over a mile from any line to which connection is possible. The trade-off, in staff's opinion, is bringing Apple Valley Ranchos to the development surrounding this area. This gives the ability to have an inter-tie and would be an excellent option.

Ms. McDonald states that staff proposes in this case that this District's sphere remain coterminous and it is hoped that the inter-tie takes place.

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Ms. McDonald summarizes staff's recommendation and states the three lower districts be consolidated or make all three districts the same sphere of influence, and retain the sphere of influence for Thunderbird to be coterminous. This would also be statutorily exempt from environmental review. It is staff's recommendation to defer adoption of the resolutions to the October hearing.

Commissioner Pearson comments that Ms. McDonald and LAFCO staff have given a very thorough overview. He says a situation now occurs where development is taking place and people may be moving into areas where they may not be served adequate potable water. He states this could be a disaster waiting to happen. He believes this could become a very serious situation where the community possibly runs out of water and there is no way to replace it. He says LAFCO can help these agencies to understand the enormity of this potential. He believes it is at a point now where steps must be taken to remedy the situation. Ms. McDonald states most of the concerns are monetary because if the districts must pay for water at the most expensive rates, it would be substantial to these areas. Commissioner Pearson points out that waiting until these agencies start to fail would be disastrous. Ms. McDonald states that the question for the Commission is whether or not it wishes to take on the burden of initiating consolidation including bearing the costs and spreading those costs to all the entities that support LAFCO. Commissioner Curatalo states that he would like to hear if the agencies have disaster plans in place and why there is a lack of connection between the agencies. Commissioner Nuaimi comments that LAFCO has the ability to send a message and creating the same sphere definition for the three entities is a good way of doing that. He states he would be inclined to zero all three spheres until it is demonstrated that there is a plan to have interconnections between the three entities because if they are not planning to connect with one another, LAFCO cannot expect them to reasonably plan to expand within their sphere. He says that, through LAFCO's sphere review, the Commission can make a determination that status quo does not work. Three water entities adjoining one another with no inter-connects with inadequacy of supply, potentially inadequacy of fire-flow is unacceptable. Commissioner Hansberger states the community might say that the right to enjoy their own successes and failures is theirs and not LAFCO's to dictate. He believes LAFCO should share with those agencies, through its action to assign a zero sphere, a sense of concern for their future. Ms. McDonald states that the Commission may include, as part of its resolution, a condition that the agencies must return within a given period of time identifying their plans for inter-connection of the three agencies. The Commission may assign all three agencies the same sphere of influence indicating the Commission's desire that the agencies consolidate in the future. Commissioner Hansberger comments that Yucaipa Water District was originally a number of agencies and in 1969, after the flood, there were impairments and no inter-ties. He recalls that fire hoses were connected between the two systems over a distance of 2,000 feet. Today they have an interconnected system.

Commissioner Mitzelfelt agrees that assigning the same sphere to the three districts would be appropriate. He believes this might create the possibility that one or more districts might step up and decide they wish to expand. In so doing, he questions if one of the agencies came to LAFCO with an application to consolidate and the three agreed, could the LAFCO approval include a requirement for inter-ties? Ms. McDonald states approval of the consolidation could be conditioned on the plan for an inter-tie between

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the three agencies. Commissioner Mitzelfelt states that if the Commission included a statement that it is LAFCO's desire that an inter-tie plan be brought to LAFCO under a sphere review process, it would be additional incentive. He asks Ms. McDonald to briefly restate LAFCO staff's recommendation for the spheres of Thunderbird CWD and Juniper Riviera CWD. Ms. McDonald states the recommendation for Thunderbird is coterminous; this affirms their existing sphere. Juniper Riviera will be considered separately as a sphere expansion has been requested. Commissioner McCallon states that he agrees with the three districts sharing the same sphere. He says he would like to share the concerns and recommendations with those districts and ask them why they are opposed. Ms. McDonald states that, at least, a representative from Mariana Ranchos County Water District is present today. Commissioner Hansberger reiterates that the Commission would like to hear the Districts' thoughts on the subject.

Ms. McDonald states she will send a letter to each of the Districts asking that a representative from each attend the October hearing. The resolutions will be placed on the discussion calendar for adoption in October.

Commissioner Hansberger moves approval of the staff recommendation, with the modification that the three water purveyors have a common sphere, and further, that they be asked to report back to LAFCO with respect to how they plan to achieve inter-ties for the general benefit of the three areas that are contiguous, seconded by Commissioner McCallon.

Commissioner Nuaimi asks if a date-certain is suggested. Commissioner Hansberger states his suggestion is to ask them to attend the October hearing and at that time resolve to set a date-certain. Commissioner Curatalo asks that the terminology "can," "will" or "should" have the interconnection, be considered. He states that if the districts have credible reasons why the inter-connections should not be made, he is open to hearing those reasons. Commissioner Hansberger states that his motion allows for that language. Ms. McDonald states the resolution adoption will be deferred to October on the discussion calendar with the request being made to the three districts to submit an answer regarding the issue of interconnection between the three, including how they plan for it, or if it can or cannot be achieved, with reasons why it cannot be achieved.

Commissioner Hansberger asks Legal Counsel if the Commission has the authority to require the information from the Districts. Legal Counsel Alsop states the Commission does have the authority to make special studies. Commissioner Hansberger asks if the resolution can be changed in October to add language based upon information presented at that time. Mr. Alsop states that if the motion includes the intent to not close the hearing and continue the matter to October for adoption of the resolution, this would allow the opportunity for additional testimony.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Cox (Commissioner Curatalo voting in her stead).

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**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3014;
AND (2) LAFCO 3014-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE
FOR COUNTY SERVICE AREA 17**

Ms. McDonald reports that CSA 17 was created in 1964 as a streetlighting entity for the Apple Valley community. At the time the Town incorporated it was detached from CSA 17, assumed responsibility for the majority of streetlights in that area. The four areas shown on the overhead display were the residual portions of CSA 17 that remain for operation under County Service Area law. Revenues generated within these areas can only be used for the purposes of CSA 17, streetlighting, within its boundaries. Ms. McDonald states there are three options for review in LAFCO staff's view: expansion of the sphere of influence to encompass the unincorporated sphere of the Town of Apple Valley, retention of an existing sphere which is coterminous with the boundaries of the four areas, or designating a zero sphere of influence, indicating that the Commission believes CSA 17 should be dissolved and its operations given to another entity. In LAFCO staff's view, the only viable options include expanding the sphere to encompass the entirety of the Town's sphere of influence, or designate a zero sphere. She says the County undertook a special study of the future of CSA 17. At the time the August report was written, LAFCO staff had no information regarding that study; however, a letter was received and sent to all Commissioners on Friday, September 12, from Norm Kanold, Assistant County Administrator, Public and Support Services Group, indicating that agreement is imminent on a contract between the County and Town of Apple Valley, for assumption of services by the Town. She says LAFCO staff will therefore modify its recommendation on this proposal. She says identification of revenues and expenditures over the past six years for this entity have been provided to the Commission. Property tax revenues for CSA 17 far exceed its actual costs. She explains that the transfer of property tax revenues to the Town was based on cost of service rather than a simple detachment when revenues generated in the Town were transferred to it. This has created a situation where there is a substantial fund balance for this agency. As of 2008-2009 the balance is \$1.2 million, and it takes only \$27,000 per year to operate this agency. She states CSA 17 has been paying for 47 street lights; however, only 40 are within the boundaries of CSA 17. The staff report includes a recommendation that the sphere of influence of CSA 17 be expanded to encompass the entirety of the Town of Apple Valley's sphere of influence. She states staff will amend its recommendation to indicate a zero sphere of influence recommendation, indicating the Commission's position that it should be dissolved and another entity assume that service. Ms. McDonald states this service review is statutorily exempt from environmental review.

Commissioner Mitzelfelt moves approval of staff recommendation, seconded by Commissioner Hansberger. Commissioner Hansberger states he has concerns about street lighting districts in general because there is a land use requirement for lighted streets and at the same time an ordinance for dark skies. He believes only critical intersections should be lighted.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Cox (Commissioner Curatalo voting in her stead).

CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 3005;

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**AND (2) LAFCO 3005-SERVICE REVIEW AND SPHERE OF INFLUENCE
AMENDMENT (EXPANSION) FOR JUNIPER RIVIERA COUNTY WATER DISTRICT**

Ms. McDonald states the Juniper Riviera County Water District has requested that, as part of its municipal service review and sphere update, the Commission consider expansion of its sphere of influence. Ms. McDonald points out on the map the boundary of the sub-basins within the Mojave Water Agency adjudication territories. She states an email from Mojave Water Agency was forwarded to the Commission indicating concern regarding the expansion of an entity crossing these boundaries, when ramp-downs are different, and the requirement for purchase of replacement water is confined to the sub-basins. Staff recommends a modification that the sphere of influence is rolled back to the parcel lines that as closely accommodate the sub-basin boundary as possible. She states this does require an expansion beyond that which was originally proposed by the District but reduces and excludes other territory. She explains that this district, like the others, has issues with availability of water, where it in fact needs to double its free production allowance in order to serve its existing users. The agency expects to purchase water from other agencies within the Este basin. She states that staff's recommendation is the Commission determine that this review is statutorily exempt from environmental review and defer the adoption of the resolution until October.

Commissioner Bagley asks if the agency intends to expand into the other sub-basin. Ms. McDonald states they did not consider that and they support the reduction in this area to the basin boundary. Chairman Colven asks if the 10 square miles is inclusive of the proposed sphere change. Ms. McDonald states the sphere expansion is 10 square miles. Commissioner Nuaimi asks if there is issue with defining a sphere expansion that does encompass the service of the private water provider. Ms. McDonald states there is not; in this case, the system has some water reliability issues and negotiations are ongoing that may address transfer of that responsibility.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

Commissioner Hansberger moves approval of the staff recommendation, seconded by Commissioner Nuaimi. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Cox (Commissioner Curatalo voting in her stead).

**CONSIDERATION OF: (1) CEQA STATUTORY EXEMPTION FOR LAFCO 2997;
AND (2) LAFCO 2997-SERVICE REVIEW AND SPHERE OF INFLUENCE UPDATE
FOR COUNTY SERVICE AREA 60**

Ms. McDonald states County Service Area 60 is a county service area created in 1966 in order to develop the Apple Valley Airport. She states the purpose of the original formation was to fund the bonds that were sold in order to build this airport which was created to replace a commuter airport that no longer fit the purpose. The boundaries of CSA 60 are expansive. Ms. McDonald reports that in 1979, when Proposition 13 went into effect, the existing tax rate for CSA 60 was made permanent through that legislation. It was a requirement as bonds were outstanding and the tax rate became a part of the one percent general levy for the area. Bonds for CSA 60's development of the airport

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were repaid in 1998; however, the property tax share has continued. She explains that at present, CSA 60 currently receives in excess of \$2 million per year for the operation of the Apple Valley Airport. Ms. McDonald states the County's business plan for 2008-2009 for the County Airports Department identifies the Apple Valley Airport as a county service area with a significant sport aviation base and further identifies the other five airports under the operation of the Airports Department. While CSA 60 is a County Service Area, it is not administered by the Special Districts Department, but is administered by the County Airports Department as they operate all other airports in the County Airports system, which include airports in Chino, Barstow/Daggett, Needles, Twentynine Palms, and Baker. She states an outline of revenues and expenditures of the agency over the last three years was provided to the Commission. She states that overall property tax revenues have steadily increased and charges for service have steadily increased, most significantly in 2006-2007, to accommodate the CHP and Sheriff's facility. The revenues in 2006-2007 totaled \$3.3 million, \$1.9 million of which was from property taxes. Expenditures for that period of time have steadily increased and salaries and benefits shifted from an actual line item to "other professional services" because it is treated as a transfer out and the Airports Department is reimbursed for the services performed at the airport, rather than a salary and benefit for CSA 60, which has no employees.

Ms. McDonald states the facilities are built and handled through a separate capital improvement account which is identified in the County General Fund system as "RAI." All capital improvement revenues go to a holding account and then are spread to the actual accounts, and the fund balance fluctuates based upon use of the revenues. LAFCO staff has identified the information as to what CSA 60 represents on its own for operation of the Apple Valley Airport. Estimated revenues and expenditures for CSA 60 and for the County Airports Department for the 2007-2008 and the 2008-2009 proposed budget were provided to the Commission for review. She states payment for full-time equivalents was included. She points out that the expenditures for CSA 60 is roughly equivalent to the entire County Airports Department operation. She explains that LAFCO staff's concern is that, over time, CSA 60 has continued without looking at the issues of the developing communities within its boundaries. Its obligation for bond debt has been resolved and its continuing operation for the airport is managed through the connection and service charges as well as property tax revenues. She states that LAFCO staff's position is that the sphere of influence for CSA 60 should be reduced to exclude the unincorporated communities and be defined by the Cities of Adelanto, Victorville and Hesperia and the Town of Apple Valley, the urban core of the Victor Valley. She says the sphere of influence does not change the boundaries or revenue generation authority for this agency; it is simply an indication of the Commission's position that the agency should be reduced to the urban core. This would accommodate and acknowledge the changing position of this airport. She says that at its inception it was intended to be a commuter airport to replace an airport where the runway no longer fit the need for commuter aircraft. Southern California Logistics Airport's conversion to a public facility rather than a military facility has changed the emphasis in this area; however, the need for Apple Valley Airport has not changed. It continues to serve a significant purpose for the community. LAFCO staff's position is that reduction of the sphere of influence would accommodate that purpose and others can receive revenues generated to nurture those communities as they develop. CSA 29 in Lucerne Valley has significant service issues and could use those revenues. LAFCO staff's analysis, based upon 2006-2007 revenues and staff's review of the County Fire Reorganization, shows the total difference in cost in

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tax dollars is \$1.9 million for the entirety of CSA 60. The Helendale area generates \$73,000, the Phelan Pinon Hills area generates \$138,000, and CSA 29 generates \$58,000 for CSA 60, so the bulk of revenues that are generated for the operation of the airport are, in fact, generated within the Victor Valley region. She says LAFCO staff has provided an outline of the municipal review factors associated with this agency and has identified the financial ability for provision of services. There is no question that this agency is capable of continuing to provide a high level of service to the community. The mechanisms for capital improvements have been identified; of concern is that the Apple Valley Airport is held in the name of the County of San Bernardino, when in fact, in 1970, it was purchased in the name of County Service Area 60. Ms. McDonald states the County is accountable for the operation of the airport; it utilizes its County Airports Commission to provide a mechanism for review and comment on the annual budget and capital improvement programs. The County Airports Department provides efficient operational facilities. Governmental structure options include the potential to consider a self-governed airport district. There is precedent in that CSA 53 originally operated the Big Bear Airport and it was converted to an independent airport district. She says there is no expressed interest to pursue such a transfer for Apple Valley Airport. An application was submitted for dissolution of the Apple Valley Airport by the Town of Apple Valley. That application was ultimately withdrawn on the basis that only the revenues from within the Town and its sphere were to be transferred to the Town upon that dissolution.

Ms. McDonald states it is staff's recommendation that the sphere of influence be reduced to address only the Victor Valley region. The County Airports Department and the County oppose this reduction and wish to have the airport continue to operate under its current boundaries and sphere of influence. This reduction in sphere is statutorily exempt from environmental review, and staff's recommendation is to defer adoption of the resolution to the October hearing.

Commissioner Bagley states he sits on the Airports Commission and asks Mr. Alsop if this would present a conflict of interest. Mr. Alsop states he does not see his participation on both commissions as a conflict, especially since he is an alternate on this Commission.

Commissioner Mitzelfelt states that, although there are county service areas that need additional funding, the County has in recent years invested unprecedented amounts to help those districts, i.e., building libraries and fire stations. He states that in his opinion this is not a way to provide funds for the local communities and he would argue that the communities are receiving a benefit, in light of the growth of the airport and around the airport in the north Apple Valley industrial specific plan area. He adds that the Town of Apple Valley and the Board of Supervisors are of the same mind on the key role of the airport in this area and the Board does take the Town's input on the operation of the airport very seriously. He points out that one proposal before LAFCO included that the Town of Apple Valley and City of Victorville could fund the operation of the airport and it was not financially feasible. He states this airport is a regional asset and the operation is working well. He believes 30,000 jobs could develop around this part of Apple Valley over the next 30 years, and those jobs could go to people living in Helendale, Lucerne Valley, and Phelan Pinon Hills. He points out that recent additions to the airport include the CHP and Sheriff's aviation facilities which provide a public safety aspect to the region. Funds brought are being put to good use for both operations and capital improvements and those funds are used to leverage FAA grants. He believes this airport

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is a high quality general aviation airport and is an important attraction for the kinds of development being pursued throughout the high desert. He believes the high desert communities are in agreement.

He concludes by stating that his preference would be to not change the current sphere of influence and moves to receive and file the service review and sphere update, but not to change the sphere of influence for CSA 60, seconded by Commissioner Curatalo.

Commissioner Pearson asks how the Commission would tell the taxpayers of CSA 60 that they have been continuing to pay an ad valorem tax for almost 10 years when the reason for the formation of CSA 60 has passed, namely the retirement of the bonds. He believes that this is a matter of honesty and ethics and perhaps when the bonds were paid CSA 60 should have been dissolved, subsequently to be replaced by a special district similar to the Big Bear Lake airport. He believes to continue the status quo is out of line and is a misrepresentation of the Commission's responsibilities. While staff's proposal spreads the wealth, he believes this issue should be decided by a new vote of the voters as was done for the creation and payment of the bonds.

Commissioner Bagley states this is an unusual special district and he understands the concerns about being honest with the voters, however, he would like to see the district reinvented with an independent board of directors with distribution of revenues not just for the Apple Valley Airport, but for some of the other airports within that district. He believes that would be an appropriate retention of fees in this district with a redefinition of the mission of the district. Ms. McDonald states the mission of the district would be defined by the County if it were to be retained as County Service Area 60. It has evolved to be a funding mechanism for the maintenance of that airport, and as indicated, under County Service Area law, the revenues generated can only be used within the boundaries of the agency, so the revenues generated for airport purposes can only be used for the operation of Apple Valley Airport. The only way to redefine it would be to expand its sphere of influence to include the entirety of the County. Commissioner Bagley states that if this district went away, he is not sure how Apple Valley Airport would stand alone as an airport. Ms. McDonald points out that the staff's recommendation is not for the district to be dissolved, but to redefine the sphere of influence only to the urban core that really pays the bulk of the revenues for that agency. This would not alter the boundaries until a subsequent action takes place, which would be through detachment. A detachment would require that the County Board of Supervisors agree to a property tax transfer, and in fact, if the County opposed they would hold the key to the future processing of such a detachment. Commissioner Bagley states he lives in Twentynine Palms and believes it would be beneficial to have a similar district there, but he would not want it limited to the zip code boundary of Twentynine Palms because he believes there would be a regional need for the airport. In Barstow and Needles, where County airports are located, a similar district would make those airports better assets today. He believes there is a real challenge in keeping general aviation alive and Apple Valley Airport is a showpiece in San Bernardino County because of the revenues that are provided by the special district. He sees future opportunities to expand that airport and he would hope that the county service area would be the mechanism to do that. He also believes there is a responsibility to the people that originally formed the district to be intellectually honest about what is being done with the revenues and how this district came about and its future.

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Ms. McDonald states the boundaries of the agency were created according to the Victorville Judicial District for the speed and simplicity of election purposes to reduce the cost and to capture as much territory as possible because in the mid 1960's the population was highly dispersed in that area, so the judicial district was chosen as the boundary. Commissioner Bagley comments that he is concerned with reducing the sphere of influence because he believes there is a benefit to maintaining a regional airport and a large geographical area is needed to accomplish that.

Commissioner Mitzelfelt states that, with reference to the concern Mr. Pearson raised, there was considerable amount of media coverage on this district when the Town of Apple Valley was considering applying to take over the airport as a city operation. He states that he does not remember a single call, letter or email to the Board of Supervisors requesting return of the revenues. He believes this airport has support in the community and adds that shrinking the sphere to the urbanized cities does not change the fundamental question, but creates a situation where if an unincorporated community wanted to detach it could. He says that question would be left to the Board of Supervisors and there is no guarantee that that would happen. He believes an alternative motion would not get the desired result to have the public vote specifically on CSA 60. He states he would appreciate the Commission's support for his motion to retain the sphere and to receive and file the report. Ms. McDonald asks if the motion includes affirmation of the existing sphere. Commissioner Mitzelfelt agrees.

Commissioner Colven asks what the shortfall in revenue would be if the sphere were reduced. Ms. McDonald states that if those areas were to detach, a rough estimate of the 2006-2007 dollars would be in the range of \$260,000 of the \$1.9 million. Ms. McDonald clarifies that the only time the monies will actually transfer is if in fact a detachment were to occur. There would have to be a separate and subsequent action. The sphere of influence would indicate the Commission's direction that its position is that the urban core is the appropriate area to provide the funding for this service and to manage this service. Commissioner Bagley states he would prefer that the agencies come back with an individual request if the agencies wish to detach. He states the scope of the future of CSA 60 is beyond the current discussion and should come back to the Commission at a future date as it deserves a more in-depth discussion and review of alternatives, and he supports Commissioner Mitzelfelt's motion. Ms. McDonald comments that the agency will be reviewed again in five years. Commissioner Nuaimi asks if those areas would detach from CSA 60 if the sphere is not reduced. Ms. McDonald states that those areas could propose detachment. Commissioner Nuaimi states the budget shows as a balanced budget, but expenditures indicate \$500,000 allocated to reserves and contingencies, so it appears that the potential impact of the detachments would be to remove half the reserves annually. Commissioner Mitzelfelt states that all excess revenues go to construction contingencies. Commissioner Bagley states federal dollars can be leveraged with monies from the district which are able to purchase huge expenditures of dollars for the improvement of the airport. He does not believe that is accurately reflected in the budget. Commissioner Nuaimi comments that the district appears to be very well-managed. He clarifies that LAFCO staff's perspective is that the area of benefit is the urbanized area of Victor Valley. Ms. McDonald confirms that is correct. He asks if a detachment would have to be supported by the County in order for it to occur. Ms. McDonald states that is correct, and retention of the sphere does not preclude an agency from requesting detachment.

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Commissioner McCallon agrees that Apple Valley Airport is a significant regional airport. He states that he agrees with Commissioner Pearson on the reasons for formation of the airport. He says that he does not believe Commissioner Mitzelfelt or the Board of Supervisors indicates any ethical lapse or dishonesty. Commissioner Curatalo comments that he would be inclined to support the motion.

Chairman Colven opens the public hearing and calls upon those wishing to speak.

Mike Williams, Director of Airports, clarifies that the original adoption paperwork for the CSA states that it was for the construction, acquisition and maintenance of the airport and the original adoption paperwork does not mention the bond sale. He expresses that as a new director he is committed to working with the Commission, the Town and growing and enhancing the airport. He believes it has a bright future and that it can be improved, but that changes in the CSA would impact the ability to do that.

Frank Robinson, Town Manager for Apple Valley, compliments the County on reaching out to the community and to the Town by inviting the Town to participate and have input into expansion discussions and improvements for the Apple Valley Airport. He states SCLA is commercializing and would prefer that general aviation move somewhere else, and with that in mind, looking to the future, the entire area of CSA 60 will be served.

Paula Nowicki, speaking as a resident of Hesperia, not the First District Chief of Staff, questions what benefit there is to the cities as opposed to the small districts. She asks why the cities should not get funds back. She states that this is actually County money, the one percent ad valorem tax. She states there is no guarantee those communities will get the money, so she prefers leaving the funding in the district.

Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Hansberger, McCallon, Mitzelfelt, Nuaimi. Noes: Pearson. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Cox (Commissioner Curatalo voting in her stead).

**STATUS REPORT – LAFCO 3082 - SPHERE OF INFLUENCE REVIEW
(EXPANSIONS) FOR CITY OF VICTORVILLE AND VICTORVILLE WATER DISTRICT
(CONTINUED FROM MARCH 19, 2008)**

Ms. McDonald reports that the City of Victorville on August 15, 2008, issued the Notice of Availability for the Environmental Impact Report for its General Plan Update. The City intends to present the General Plan Update to the City Council on October 7, 2008. She states that once the review is completed and the environmental documents are certified, staff will bring this matter to the Commission. Staff will be conducting a service review and sphere of influence update.

STATUS REPORT – LAFCO 3050 – REORGANIZATION TO INCLUDE CITY OF SAN BERNARDINO ANNEXATION NO. 360 (ARROWHEAD SPRINGS SPECIFIC PLAN AREA) (CONTINUED FROM MARCH 19, 2008)

STATUS REPORT – LAFCO 3067A-3067F – CITY OF SAN BERNARDINO ANNEXATION NO. 361 (ISLANDS 1-6) (CONTINUED FROM MARCH 19, 2008)

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Ms. McDonald reports that LAFCO staff met with the San Bernardino's City Manager and his staff to review the current status of this proposal. She states the letter included in the materials requests that this matter be continued while the City works to resolve issues on water service. The City reiterates its commitment to initiating annexation of the balance of the islands within the area. She says a copy of the resolution the City adopted two years was provided to the Commission and the City acknowledges the need for the Arrowhead Springs annexation to move forward in order to balance the financial resources for the islands. She says the staff's recommendation is to require staff to return in six months with a status report unless information is received from the City to move forward with further evaluation. She notes that LAFCO staff has received calls from Campus Crusade, the property owner of the Arrowhead Springs, indicating that it is moving forward to provide for a master developer and asking for a continuance while agreements are negotiated.

Chairman Colven opens the public hearing and calls upon those wishing to speak. There is no one. The public hearing is closed.

Commissioner McCallon moves approval of the staff recommendation, seconded by Commissioner Nuaimi. Chairman Colven calls for a voice vote on the motion and it is as follows: Ayes: Colven, Curatalo, Hansberger, McCallon, Mitzelfelt, Nuaimi, Pearson. Noes: None. Abstain: None. Absent: Biane (Commissioner Mitzelfelt voting in his stead), Cox (Commissioner Curatalo voting in her stead).

PENDING LEGISLATION REPORT

Ms. McDonald reports there has been no change since last month. The Commission was provided with copies of a handout from Peter Detweiler and the white papers that were distributed at the CALAFCO annual conference. She states that of concern is that if the governor holds to his commitment to veto all bills he will veto SB301 which removes the sunset clauses for the VLF.

EXECUTIVE OFFICER'S ORAL REPORT

Ms. McDonald states that at the CALAFCO Conference the County received the Government Leadership Award for the County Fire Reorganization and Dennis Hansberger received the Commissioner of the Year Award from the 58 counties. She remarks that the theme of the awards was Academy Awards and replicas of Oscar statuettes were awarded to the winners; however, Commissioner Mitzelfelt did not receive the County's award because the word "award" could not be used on the statuette because it would be a copyright infringement. She states she is happy to present the statuette to Commissioner Mitzelfelt, absent the word "award" for Government Leadership for the County Fire Reorganization. Commissioner Mitzelfelt thanks LAFCO staff and the Commission on behalf of the Board of Supervisors.

Ms. McDonald reports that the October hearing will include an afternoon session and the Commission will consider service reviews for the Communities of Hesperia and Barstow, adoption of the Apple Valley resolutions, discussion of the Water Districts' issues. The November hearing will include a workshop on the formation of CSA 120, so that CSA 120 will operate under the provisions of the current county service area rather than the law that will take effect on January 1, as the new law would require a vote. She states

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that the November agenda will include consideration of the EIR for the consolidation of the San Bernardino Valley Water Conservation District and the San Bernardino Valley Municipal Water District, and service reviews for the Yermo/Daggett/Newberry Springs area. She adds that the Commission will not meet in December.

COMMISSIONER COMMENTS

COMMENTS FROM THE PUBLIC

Chairman Colven calls for comments from the public. There are none.

**THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE
HEARING IS ADJOURNED AT 12:22 P.M.**

ATTEST:

ANNA M. RAEF
Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

ROBERT W. COLVEN, Chairman